

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Sara L. Hensley

SUBJECT: SEE BELOW

DATE: 08-12-04

Approved

Date

8/20/04

Council District: Citywide

SNI Areas: N/A

**SUBJECT: PROPOSED ORDINANCE TO AMEND CHAPTER 7.08 OF THE
SAN JOSÉ MUNICIPAL CODE, SECTION 7.08.595 –MAXIMUM
NUMBER OF DOGS, CATS OR LITTERS**

RECOMMENDATION

Approve an ordinance to amend Chapter 7.08, Section 7.08.595 of the San José Municipal Code to clarify the maximum number of dogs and cats permitted as a “per dwelling unit” limit and increase the limit to a maximum of five animals with no more than three adult dogs.

BACKGROUND

On June 1, 2004, the Department of Parks, Recreation and Neighborhood Services (PRNS) presented recommendations to the City Council to revise Chapter 7.08 of the San José Municipal Code, entitled “Animal Regulations and Rabies Control”. Specifically, the Department recommended three revisions: 1) That the pet limit be increased from two to five, 2) that animal rescuers be exempted from the pet limit, and 3) that animal rescuer activities be regulated.

After discussing the proposed amendments, the City Council voted to approve the regulations related to animal rescuers; however, the Council directed staff to maintain the current pet limits and submit a more detailed analysis on pet limit issues including statistical data on the average number of pets per dwelling unit. This memorandum responds to that direction.

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San Jose Municipal Code, Section 7.08.**

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ANALYSIS

In reviewing the animal license database, records indicate that 97.5% of individuals have two or fewer pets that are licensed by the City of San Jose. The remaining 2.5% of individuals in the database have three or more licensed pets. Using the license database as a statistical sample, it is estimated that 5,000 to 10,000 dwelling units in San José have three or more dogs and cats and less than 0.1% of dwelling units have in excess of five pets.

National statistics indicate that 34% of U.S. dwelling units own a cat; 39% own a dog and 50% own a pet¹. Based on these statistics, it is estimated that less than 10% of dogs and cats in San Jose are properly licensed at the current time (24,000 in 2003-2004). Consequently, the average number of pets per dwelling unit may be significantly understated. This seriously jeopardizes the City's ability to administer an effective animal and rabies control program and potentially represents a substantial loss of licensing revenue. An aggressive outreach plan to increase the number of licensed pets and an active spay/neuter program are two tools that can increase the likelihood that the City will succeed in its efforts to decrease the number of unwanted animals and reduce the need for a costly euthanasia program. To initiate these efforts, a request to establish a pet licensing amnesty program is being forwarded to the City Council under separate cover.

Pet limits

Chapter 7.08 of the San Jose Municipal Code, Section 7.08.595 limits the number of dogs, cats and litters residents can maintain (See Attachment A). Historically, this Section has been interpreted to limit *each* dwelling unit to two pets. However, in reviewing the Municipal Code, an argument could be made that the Section could be interpreted to allow two pets per resident. Such an interpretation would have significant ramifications in terms of both animal public nuisance complaints (such as barking dogs) as well as health and safety issues.

To address this issue, staff is recommending that an ordinance be adopted to amend Section 7.08.595 to clarify the pet limit as a "per dwelling unit" limit as opposed to a "per person" limit. The Department recognizes that such a clarification could result in situations whereby families with more than two pets would be required to either remove their pets from their home or knowingly violate the City's licensing requirements. This is not in the best interests of pet owners, their pets or the City.

In an effort to balance the competing interests of pet owners while addressing valid concerns regarding animal public nuisance complaints, the Department is recommending a second revision that would increase the number of pets per dwelling unit allowed under the ordinance from 2 to 5 with no more than 3 adult dogs. This change would increase community capacity to care for unwanted pets and create a larger market for adoption placements.

¹ According to 2004 statistics provided by the Humane Society of the United States

Nationally, animal shelters account for only 15-20% of pets in homes. In 2002-03, the Humane Society housed 15,246 stray animals brought in by ACS. Of those, 10,366 or 68% were euthanized. In a community as large as San Jose, a small adjustment in the market can have a significant impact on dog and cat adoptions. Every pet that is adopted by ACS is required to be spayed or neutered before it leaves the facility. If a larger proportion of the animals placed in San Jose homes come from ACS, then the long-term effect will be fewer litters and fewer euthanized animals.

While the proposed ordinance does allow for one additional dog per dwelling unit, this is not a significant increase and is consistent with maximum dog limits of surrounding communities as illustrated in the following table. Please note that many jurisdictions do not regulate the number of cats a person can own. Cat and dog populations in San José are further controlled by the limits on litters and unsprayed females.

TABLE 1

Jurisdiction	Pet Limits	Total: Pets Allowed
City and County of San Francisco	Up to 3 dogs and 1 cat, or 3 cats and 1 dog, not to exceed 4 total	4
City of Oakland	No limits on cats or dogs	Unlimited
County of Los Angeles	3 dogs and/or 3 cats (total of 6)	6
City of San Diego	6 dogs, no cat limit	6 dogs Unlimited Cats
City of Sacramento	3 dogs, no cat limit	3 dogs Unlimited Cats
County of Santa Clara	2 dogs and 5 cats	7
City of San José (current)	2 dogs or 2 cats or one of each	2
City of San José (proposed)	Up to 3 dogs or 5 cats or combination of dogs and cats not to exceed 5 total	5

Enclosed as Attachment B is a chart that summarizes the current ordinance regarding pet limits, proposed changes and potential advantages.

Process Improvements Related to Pet Nuisance Complaints

The City Council expressed concern that any increase to the pet limit could exacerbate public nuisances such as barking. In ACS's experience, the problem of barking arises not necessarily from the number of animals, but from the dog's frustration and anxiety over being left alone for long periods of time. In May 2004, improvements were made to the process for administering a complaint about a barking dog. In the past, a complaint was only open for 30 days. Many dog

owners will initially quiet their dog after contact from ACS. However, sometimes the behavior will begin again after 30 days and the complainant must start the process over. Now, the case remains open for a year and the person(s) complaining can build on each previous incident. Citations are issued based on witness accounts of the actual violations. ACS offers educational material and helpful suggestions to the dog owner. After three citations, ACS has the option of issuing a citation for a misdemeanor crime, or seeking a cease and desist order that empowers ACS to abate the nuisance (remove the dog). The time investment is still significant in situations where the dog owner is uncooperative; however, the process improvements implemented are intended to respect the due process rights of pet owners under the Constitution while ensuring that the pet nuisance issues are remedied as expeditiously as possible.

CONCLUSION

In order to be a successful community service ACS must work toward more open communication with the pet owning public. Residents who think that ACS will take their pet away will not be likely to take advantage of programs offered such as the low cost spay and neuter clinic, vaccine clinics, licensing promotions, nor will they be as open to ACS educational efforts about responsible pet ownership. By clarifying the ordinance and creating a reasonable limit, the Department hopes to create an environment that encourages pet owners to be responsible, to voluntarily comply with City regulations and ensure that all pets are properly licensed and vaccinated. As such, the Department requests that the City Council approve an ordinance to amend Chapter 7.08, Section 7.08.595 as recommended in this memorandum.

PUBLIC OUTREACH

This ordinance was circulated and endorsed by the Animal Advisory Committee at its January 7, 2004 meeting. A public hearing was held at the Parks and Recreation Commission meeting of May 5, 2004. Staff also met with the Santa Clara County Veterinary Medical Association in Fall 2003 and received majority requests to increase the pet limits. On July 7, 2004, the Animal Advisory Committee reaffirmed their endorsement of the proposed amendments to the dog and cat limits.

ACS is working to establish a network of animal rescuers and advocates that want to be informed of activities related to domestic animals and the Animal Services programs. Currently in development is a website dedicated to information and issues relevant to the public and their pets. ACS intends to use the media and mailers in the future for other notable changes in service or announcements about important issues or hearings. After the Animal Care Center is operational, ACS will use surveys of customers to collect data on operations and to determine the success of the programming. As future funding becomes available, a public relations campaign will be considered.

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COST IMPLICATIONS

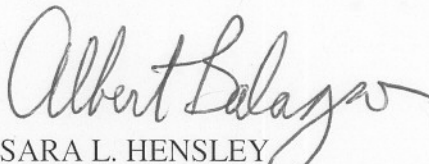
Any cost implications associated with these changes is expected to be minimal. However, additional revenue may be generated as a result of increased licensing as owners choose to voluntarily comply with the clarified ordinance.

COORDINATION

This memorandum was coordinated with the offices of the City Manager and the City Attorney.

CEQA

Not a project.


for SARA L. HENSLEY
Director of Parks, Recreation and
Neighborhood Services

Attachments

ATTACHMENT A

Section 7.08.595 of Title 7 of the San José Municipal Code provides:

No person shall keep or maintain more than two dogs over four months of age, or more than two cats over four months of age, or more than a combined total of two dogs and cats including no more than one unspayed female dog or one unspayed female cat, on any premise except a premise maintained by a veterinarian licensed by the state of California for the practice of veterinary medicine, without a valid permit from the administrator for a private kennel, commercial kennel, pet shop, animal menagerie, or animal shelter. A female dog or cat shall be rebuttably presumed to be unspayed unless the owner provides evidence of spaying. Written certification from a licensed veterinarian that an animal cannot be spayed for health reasons or is incapable of breeding shall be deemed a satisfactory substitution for a certificate showing an animal is spayed.

No person shall allow the Parturition and rearing of more than one litter of dogs or cats in any one calendar year from females owned by him or maintained on his premises without a valid permit from the administrator for a private kennel, commercial kennel, or animal shelter.

No private kennel shall keep or maintain more than a combined total of five dogs and cats over four months of age on any premises.

ATTACHMENT B

Current Law	Proposed	Advantages
<p>Ordinance:</p> <ul style="list-style-type: none"> Section 7.08.595 specifies “person” in reference to pet limits <p>Pet Limit: Two (2)</p> <ul style="list-style-type: none"> A <i>person</i> may own two adult cats, or two adult dogs, or a maximum of no more than a total of 2 adults in combination. <p>Maximums:</p> <ul style="list-style-type: none"> 2 adult dogs or; 2 adult cats or; 1 adult dogs and 1 adult cat. 	<p>Clarify Ordinance:</p> <ul style="list-style-type: none"> Ordinance applies to per dwelling unit, not per person <p>Pet Limit: Five (5)</p> <ul style="list-style-type: none"> Maximum number of pets per <i>dwelling unit</i> would be 5, with <u>no more than 3 adult dogs</u>. <p>Maximums:</p> <ul style="list-style-type: none"> 3 adult dogs and 2 adult cats or; 2 adult dogs and 3 adult cats or; 1 adult dog and 4 adult cats or; 5 adult cats. 	<ul style="list-style-type: none"> Clarify law as per dwelling unit, not per person. Makes law easier for staff to communicate to public. Enhances the ability of animal services to monitor rabies vaccination compliance Eliminates the majority of conflicts requiring Animal Services to force the removal of pets in excess of the current maximum (2) Reduces number of current violators. Encourages compliance by persons with more than two adult dogs and cats. Encourages cooperation from veterinarians to share client rabies vaccination information. Increases public capacity to have animals. Reduces euthanasia in animal shelter. Encourages increased adoptions at animal shelter. Increases licensing revenue. Aligns San José pet limit laws with surrounding communities.
<p>Litter Limits</p> <ul style="list-style-type: none"> Limits number of litters to one per year per person Limits number of unspayed females owned by a person to one. 	<p>Litter Limits</p> <ul style="list-style-type: none"> Limits of litters per year remains the same; <i>clarified as one per dwelling unit</i> Requirement for number of unspayed females remains the same; <i>clarified as one per dwelling unit</i> 	<ul style="list-style-type: none"> More restrictive limit on breeding. Restricts number of unspayed females to per dwelling unit. Clarifies intent of law.